

**TAB 31**

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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In Re: PHARMACEUTICAL )  
INDUSTRY AVERAGE WHOLESALE ) MDL No. 1456  
PRICE LITIGATION ) Civil Action No.

-----X 01-12257-PBS

THIS DOCUMENT RELATES TO: )  
United States of America ex )  
rel. Ven-a-Care of the )  
Florida Keys, Inc., et al. )  
v. Boehringer Ingelheim )  
Corp., et al., Civil Action )  
No. 07-10248-PBS )

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(CROSS-CAPTIONS APPEAR ON FOLLOWING PAGE)

VIDEOTAPED 30(b) (6) DEPOSITION OF ROXANE  
LABORATORIES, INC., ROXANE LABORATORIES, INC.

n/k/a BOEHRINGER INGELHEIM ROXANE, INC.,  
BOEHRINGER INGELHEIM PHARMACEUTICALS, INC., and  
BOEHRINGER INGELHEIM CORPORATION by JUDY WATERER

DECEMBER 12, 2008

<p style="text-align: right;">46</p> <p>1 It's not something that we think about. We 2 manufacture product and we sell product to 3 customers. What they do with it subsequently is 4 between them and whatever contracts they agree to 5 and whatever reimbursement they agree to. It's 6 not our -- it's not our gig.</p> <p>7 Q. I would like to come back and ask you 8 about your statement about industry practice.</p> <p>9 A. Mm-hmm.</p> <p>10 Q. And you described, you said it's just 11 industry practice. What products come to mind 12 that -- well, what was -- let me pause for a 13 second.</p> <p>14 Can you describe to me the other 15 companies that you are aware of that follow this 16 practice?</p> <p>17 A. I'm not sure I understand your question 18 about describe the other companies.</p> <p>19 Q. Identify for me.</p> <p>20 A. I would have to open up the book and 21 read you the list of every generic company that 22 sells products in the U.S.</p>	<p style="text-align: right;">48</p> <p>1 A. When I was in the role, it would have 2 been -- I'm trying to remember when the first 3 product that I launched was, and it was probably 4 '97, and the role transitioned to Leslie 5 Paoletti. And I'm not sure, because it was a 6 gradual transition, when the official cutoff was, 7 but it would have been in the earlier part of 8 this decade.</p> <p>9 Q. Okay. So what, roughly five years you 10 had responsibility for setting AWP at time of 11 launch?</p> <p>12 A. It's a reasonable estimate, whether it 13 was seven or three or --</p> <p>14 Q. Okay.</p> <p>15 A. It was --</p> <p>16 Q. Approximately how many products did you 17 have responsibility -- that responsibility for?</p> <p>18 A. In total?</p> <p>19 Q. Yes.</p> <p>20 A. At any one time, there was probably in 21 excess of 300.</p> <p>22 Q. No. How many products did you set the</p>
<p style="text-align: right;">47</p> <p>1 Q. So it's your understanding that every 2 generic -- every company that sells generic 3 company products in the United States follows 4 this practice?</p> <p>5 A. It's my understanding that if there are 6 a few that don't that they would be exceptions.</p> <p>7 Q. And what's that understanding based on?</p> <p>8 A. When -- when I open up the Red Book and 9 I look at AWPs out of competitive launch, I'm not 10 familiar with having experienced seeing oh, wow, 11 our AWP calculation is completely different than 12 everybody else's. What comes back is yep, 13 everybody is two cents different. Some -- some 14 was 10 percent plus a penny, some was 10 percent 15 less than a penny; yep, we're in the ballpark.</p> <p>16 Q. So has it been your practice over time 17 -- let me back up.</p> <p>18 You've had responsibility for setting 19 AWPs at the time of launch of Roxane generic 20 products; is that correct?</p> <p>21 A. For a period of time, yes.</p> <p>22 Q. Okay. What period of time?</p>	<p style="text-align: right;">49</p> <p>1 AWP for at the time of launch?</p> <p>2 A. I would have to go through year by year 3 and determine how many products launched each 4 year.</p> <p>5 Q. Approximately.</p> <p>6 A. It varied by year. It would be very 7 difficult for me to get that. I'm not prepared 8 to go through and say this product launched.</p> <p>9 Q. I mean --</p> <p>10 A. I've been in --</p> <p>11 Q. -- four products or 40 or 400?</p> <p>12 A. Probably between one and 10 a year.</p> <p>13 Q. That works out to any -- somewhere 14 between 20 and 30 or 40 products over a period of 15 time?</p> <p>16 A. I don't know.</p> <p>17 MS. RIVERA: Hold on.</p> <p>18 MR. HENDERSON: Okay. All right.</p> <p>19 MS. RIVERA: Let me just put an 20 objection on the record.</p> <p>21 MR. HENDERSON: She said she didn't 22 know.</p>